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United States Government Accountability Office
Washington, DC 20548

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September 7, 2010

The Honorable Barbara Boxer
Chairman
The Honorable James M. Inhofe
Ranking Member
Committee on Environment and Public Works
United States Senate

The Honorable Henry A. Waxman
Chairman
The Honorable Joe L. Barton
Ranking Member
Committee on Energy and Commerce
House of Representatives

Subject: *Environmental Protection Agency: National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Environmental Protection Agency (EPA), entitled “National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines” (RIN: 2060-AP36). We received the rule on August 16, 2010. It was published in the *Federal Register* as a final rule on August 20, 2010, with an effective date of October 19, 2010. 75 Fed. Reg. 51,570.

The final rule promulgates national emission standards for hazardous air pollutants for existing stationary spark ignition reciprocating internal combustion engines that are either located at area sources of hazardous air pollutant emissions or that have a site rating of less than or equal to 500 brake horsepower and are located at major sources of hazardous air pollutant emissions.

Enclosed is our assessment of EPA’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that EPA complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Nicole Owens
Director, Regulatory
Management Division
Environmental Protection Agency

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
ENVIRONMENTAL PROTECTION AGENCY
ENTITLED
"NATIONAL EMISSION STANDARDS FOR HAZARDOUS
AIR POLLUTANTS FOR RECIPROCATING
INTERNAL COMBUSTION ENGINES"
(RIN: 2060-AP36)

(i) Cost-benefit analysis

Based on estimated compliance costs on all sources associated with this final rule and the predicted change in prices and production in the affected industries assuming passthrough of costs to affected consumers, EPA believes the estimated social costs of this final rule are \$253 million (2009 dollars). EPA states that the total monetized benefits of this final rule in 2013 range from \$510 million to \$1.2 billion (2009 dollars, 3 percent discount rate).

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

EPA certifies that this action will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

EPA states that this final rule contains a federal mandate that may result in expenditures of \$100 million or more for state, local, and tribal governments, in the aggregate, or the private sector in any 1 year. Accordingly, EPA prepared a written statement under section 202 of UMRA, which was summarized in the final rule.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The final regulations were issued using the notice and comment procedures found at 5 U.S.C. § 553. On March 5, 2009, EPA published a proposed rule entitled "National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines." 74 Fed. Reg. 9698. The final rule contains a summary of EPA's responses to major comments received on the rulemaking. The final rule is effective October 19, 2010.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

EPA states that the information collection requirements in this final rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.* EPA notes that the information collection requirements are not enforceable until OMB approves them.

Statutory authorization for the rule

EPA states that the authority for this action is provided by section 112 of the Clean Air Act. 42 U.S.C. § 7412.

Executive Order No. 12,866 (Regulatory Planning and Review)

EPA states that this action is an “economically significant regulatory action” because it is likely to have an annual effect on the economy of \$100 million or more. Accordingly, EPA submitted this action to OMB for review.

Executive Order No. 13,132 (Federalism)

EPA states that this final rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. EPA notes that this final rule primarily affects private industry and does not impose significant economic costs on state or local governments. Thus, EPA states that Executive Order 13,132 does not apply to this final rule.